

Testimony of
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My Name is Kieran Kelly, I am the Co-Owner and head of A&R for the independent record label Stunning Models on Display, which currently represents six artists and bands. First, I would like to thank the committee for taking time this morning to consider the important issue and the impact it may have on our industry. I would also like to specifically thank Chairwoman Velasquez and Congressman Chabot for your leadership in making this hearing possible.

I have worked in the music industry for more than 15 years. Though I have worn many different hats and served in many roles during my career, the one constant has always been my belief that artists are the key to the work we do and the music we enjoy. My livelihood is rooted in the success of the artists I represent and the general success of the industry. For that reason I am here today on behalf of myself and the label I own along with my partners, to explain why we believe that dramatic royalty increases paid by internet radio stations will do tremendous damage to broadcasters, record labels like mine and ultimately, it will have an unintended consequence of harming artists.

Today, thanks largely to innovation in digital technologies, music is enjoyed more than ever by more people throughout the world. For the first time, there are options for the

composition, production, and distribution of music that are not confined by physical limitations or geographic borders. Nowhere is that evolution more obvious than in the incredible diversity of music available online. Freed from the constraints of traditional radio and free to give listeners what they want to hear, webcasters have enabled and empowered their “consumers” to seek out new sounds and new artists. In return they have empowered artists to reach new audiences and build fan bases. As every artist and everyone in the industry recognizes, there is a promotional value associated with having your music broadcast whether online, on satellite radio, or through traditional radio. I believe artists should be paid for the music they make and that royalty payments are important, but I also believe that the proposed rates are cost prohibitive and will take far too many webcasters off the air – and when they go off the air so will go the artists whose music they play. We are on the verge of a new golden age for music and musicians, this rate increase threatens to plunge us back into the dark ages of limited access to music, limited options for artists, and limited success for all.

The Music industry has changed so dramatically over the past 10 years and more and more the driving force for "discovery" is internet radio. Webcasters, social network sites, and individual artist homepages have become distribution centers for artists around the country. Portals for listeners and fans to visit and hear new music, download the latest track, and more importantly, purchase CD's and songs. The internet, as we all know has changed the way we learn, shop, communicate, and live. It has also revolutionized the way in which music, one of the great cornerstones of society since the dawn of time, enters peoples' lives. These new rates, if allowed to take effect, would restore the walls

that once separated artists from new fans and listeners from new sounds. They would restore the limitations that once existed and close the doors the Internet has opened.

What seems to be lost during this debate is the unique options inherent to NetRadio. The flexibility and diversity it gives listeners is both the reason it is so popular and the underlying cause of this looming crisis. Proponents of this rate increase believe there is more money to be made through netradio – how could there not be with more than 50 million Americans listening monthly. The reality however is that those 50 million listeners are drawn to netradio because it is a better listening experience. Fewer advertisements, minimal disruptions, and less interruptions coupled with more diverse playlists and platforms than traditional radiomakes for a delicate balancing act for webcasters, as they choose between giving listeners what they demand and monetizing the product they are offering. The competition between webcasters is unprecedented in broadcasting. Thousands of webcasters vying for a listening audience unconfined by geography or cost, and subject only to the quality of the product makes for a very thin bottom line.

Yes, the bottom line is a little thicker for large corporations and conglomerates that have ventured into webcasting, and a reversal of these increased rates will be in their favor. But reversing these rates also favors every small webcater who is hoping to someday become bigger and more profitable. No one benefits from these increased rates. Not the webcasters who can't pay them, the listeners who won't be able to find the music they

want anymore, or the artists who will not only receive less money after the industry is decimated, but will also receive less air time.

This evolution of the industry and the collaborative relationship between broadcasters, labels and artists is producing more and better music. This is especially true with the small webcasters that have been able to attract and maintain the loyal fan bases of smaller independent artists. As the owner of a label whose bottom line depends on my ability to promote the artists I represent, these webcasters are priceless and provide invaluable tool.

We have all had to adapt to the digital age and the impact it has had on the industry. We – all of us from producers and labels to artists – are faced with a choice, embrace it as an opportunity or resist it at our own peril. Those that chose to embrace it will ultimately enjoy the fruits of a new age that does not discriminate on size, only quality. This Committee is set up to protect the interest of small business – the backbone of the American economy. The excessive royalty rate increase is not in the best interest of the industry as a whole, but it is also not in the best interest of small webcasters, small bands, independent artists, and independent labels. We are all at risk of losing an invaluable tool and a golden opportunity.

Thank you again for your time this morning. Now, I would like to answer any questions you might have at this time.